

compatible cards. However, that is not the current state of the marketplace. In fact, virtually all carriers except the former Bell System partners issue calling cards which rely exclusively on access code dialing, usually 800 or 950 access. These cards typically contain the consumers' 10 digit telephone number (either residence or business) and a 4 digit PIN. Market research continues to confirm consumer preference for such cards.

Once implemented, however, BPP will force all carriers except the LECs to issue the less-attractive non-line number based cards. This provides the LECs, who alone can continue to issue line number based cards in a BPP environment, with an important advantage in the marketplace -- an advantage which cannot be overcome merely by the selection of a separate interLATA PIC. Indeed, this advantage will only increase in time as more and more states allow intraLATA competition and the BOCs whittle away at the remaining MFJ restrictions. A competitive marketplace cannot tolerate a single line number based card for which the LEC is the default intraLATA carrier.

While AMNEX does not believe that the Commission should impose a uniform calling card format on the marketplace, i.e., force carriers to issue either 891, CIID or 14 digit line-number based cards, it clearly must ensure that the LECs do not use their current technical inability to perform 14 digit screening and store multiple PIN numbers against a line number in LIDB as a shield from competition. At a minimum, it must require the LECs to study the feasibility of 14 digit screening, report on the associated costs

and technical issues and then require that it be made available. While issues concerning the treatment of duplicative (between carriers) PIN numbers and confidentiality will still need to be addressed, this will at least permit IXC's to continue to issue 14 digit line number based cards if they so choose. Anything less threatens the very core of a competitive calling card marketplace.

C. Secondary OSP Designations Will Be Infeasible

Beyond the form of the card itself, the network requirements imposed by BPP present formidable barriers to entry for third tier carriers seeking to serve the transient user marketplace. While the concept of partnering with a secondary OSP appears at first blush to resolve expressed concerns about the inability of small or regional carriers to participate in the calling card marketplace post BPP, AMNEX does not believe this concept will in fact prove feasible, and in any event will be very complex to develop and implement.

For example, assume Carrier A issued a calling card and wished to have it useful on a 0+ basis. Assume further that such card was reissued into the 891 or CIID format as contemplated by the Notice. Finally, assume the carrier, like most third tier carriers, had originating FG-D service in only a portion of the country.

In order to provide subscribers with the nationwide origination necessary for BPP, Carrier A "partners" with Carrier B who has a nationwide network. When Carrier A's customer uses his calling card, the LEC will perform a 6 digit screening and identify the card as an IXC card. It will then attempt to send the card to

the issuing carrier. This simple screening will work if Carrier A has established FG-D facilities in the originating LATA. However, if it has not, the LEC would need to consult a routing database to determine if Carrier A had a partner in the LATA to whom the call could be sent. This information would have to be stored in a database, either LIDB or some other database established for this purpose. Once this second look up was complete, the call would be routed to the secondary or partner carrier, Carrier B.

Once it receives the call, Carrier B will not know what to do with the call unless it also performs a database look up to determine that the card was issued by Carrier A. Carrier B then knows it needs to send the call to Carrier A. This is not the end of the call, however; once it receives the call, Carrier A still must perform another database check to assure the card is valid. Only after this is complete can Carrier A connect its customer with the requested information service provider, or return the call to the originating LATA (via the access tandem) for POTS completion.

Even in this simple example, each call is screened three times and switched three times. Most importantly, the caller has had to wait while three different carriers performed three separate database look-ups and switched the call three times. In contrast, the current system of access code dialing directs the call to the correct IXC network in the first place, perhaps increasing dialing time, but clearly providing quicker call set up time.⁷ The added

⁷ It is important to note that the marketplace is moving towards use of so-called "swipe" technology in telephones located
(continued...)

costs, not to mention the call set up time, inherent in a "BPP with partner" situation clearly outweigh any benefits the caller may gain by not having to dial an access code.

Additionally, in the more likely scenario that multiple carriers are used for partnering, the routing gets even more complex, as more sophisticated routing tables are needed and more switches must be transversed for the call to be set-up and then completed. Even imbedding a secondary PIC in the original LEC 6 digit screening would not completely correct this problem; the routing complexity and increased call set up time would still remain.

Finally, partnering creates a host of practical business problems. Whenever multiple networks and switches are used to place a call, the potential for fraud increases exponentially. Confidentiality issues also arise, as carriers are required to share customer identification and information with each other in order to facilitate the partnership. More fundamentally, the need to "partner" forces carriers into a business relationship which they otherwise might not undertake, a relationship complicated by the need to share what is considered proprietary customer

⁷(...continued)

in high volume transient locations such as airports. Once the card is "swiped" through the phone, the customer's billing information is automatically recorded; the customer only has to dial the destination number. This technology would be of no effect with a calling card issued in the BPP environment; however, if combined with access code dialing, this technology would provide the consumer with the same benefits as BPP -- uncomplicated dialing, the carrier of choice and numerous competitive alternatives.

information which could be used against the issuing carrier in the event of a business dispute.

If they work at all, secondary PICs are only useful with LEC cards, and then only if the secondary PIC is a carrier with a nationwide network. Accordingly, the concept has serious negative implications for the competitive interexchange marketplace, as discussed in Section III, below.

D. A New LEC Monopoly Will Be Created

In the final analysis, the implementation of billed party preference may simply create a monopoly larger than the one it was intended to disperse. Implementation of BPP will require IXCs to undertake fundamental re-design of their existing networks. By forcing carriers to obtain nationwide originating FG-D access in place of existing FG-B and 800 service arrangements in order to participate in the calling card marketplace, BPP increases the costs for third tier carriers and, if implemented now, will most likely operate only to further entrench the three largest carriers (AT&T, MCI, Sprint) who have a large, nationwide 1+ marketshare and established, nationwide FG-D originations. Indeed, BPP virtually assures these carriers a 0+ marketshare equal to their 1+ marketshare. Importantly, as the only carriers able to offer a wholesale access product on a nationwide basis, the continuation of their current unwillingness to offer shared FG-D network arrangements (and their failure to offer such arrangements at reasonable prices should the Commission require the arrangements be made available) will in and of itself stifle competition and

replace the competitive public communications marketplace with a government induced triopoly.

Similarly, by interposing the LEC on all alternatively billed calls⁸, billed party preference exacerbates the complex regulatory dilemma facing the Commission, Congress and the industry whenever the LEC is both the provider of a bottleneck, essential service and a competitor in the provision of enhanced services. In no market segment will this problem become more apparent than in the provision of information services to the public communications marketplace. As in other areas, now that they have been freed of the information services restriction, the Commission will need to guard against the possibility that the BOCs could use the billed party preference information stored in their databases to their competitive advantage in the information services marketplace. Accordingly, any adoption of mandatory billed party preference must be accompanied by a comprehensive examination of its effects on the Commission's Computer Inquiry III, ONA and CPNI rules.

BPP should not be introduced until the smaller carriers are strong enough to achieve measurable market share and financially secure enough to establish the nationwide, SS7 based networks required to participate in BPP. And, any introduction of BPP must be accompanied by the safeguards described in Section IV, below.

⁸ In addition, the serious MFJ issues concerning the legality of BOC-provided billed party preference have still not been discussed, let alone resolved.

**III. BPP Will Require Substantial Network
Re-design and Increase Access Costs**

Under BPP, third tier carriers will have to completely redesign their networks not only to replace FG-B and 800 facilities with FG-D facilities, but also to add new trunks from the LEC OSS in order to accept originating BPP calls. This will result in substantial stranded investment. It will also require carriers to incur LEC imposed network reconfiguration costs.

While some LECs allow IXCs to upgrade their FG-B facilities to FG-D facilities, others require that service be disconnected and reestablished. Who bears the cost of this reconfiguration and stranded investment? What about long term contract commitments for FG-B and 800 service -- who will pay the penalties which arise when minimum commitments are not met? What will happen to the carriers whose business was based on providing such services?

Most importantly, BPP will require carriers to establish new trunk groups to the LEC OSSs in order to receive originating calls. However, the existing trunks to the LEC access tandems will still be needed for terminating traffic. The result of BPP is that OSPs can no longer have two-way trunks for operator services; they are forced to deploy separate trunk groups for originating and terminating OS access. AMNEX estimates that 75% of its network would need to be reconfigured, resulting in a 50% increase in its network costs just to handle the same level of traffic in the same

geographic area.⁹ This rearrangement would result in a loss of efficiency of at least 50%, due mainly to the need to have unnecessary, duplicative trunk groups from both the tandem and OSS.

The inefficiency caused by this separation of originating and terminating access trunk groups will hit hardest against third tier carriers. Such carriers typically have more modest traffic volumes and rely on common transport facilities. What limited opportunities they do have to deploy the more economical dedicated facilities (DS-1 or DS-3) will be further eradicated by BPP's virtual elimination of two way trunk groups. This inefficiency and increased access costs will only be exacerbated if a partitioned rate structure is adopted in Docket 91-213.¹⁰ The potential effect on third tier carriers in a restructured access charge environment must be considered, both here and in any further proceedings relating to access restructuring. Until the potential effects of BPP on carriers' access charges are fully understood and quantified, neither BPP nor a new access rate structure should be adopted.

**IV. Significant Questions Remain Concerning The
Costs of BPP and Its Effect on Related Industries**

Other problems identified in the original round of comments

⁹ If AMNEX were to establish the nationwide network required for BPP, its Network capacity would need to more than double.

¹⁰ Supra Note 3. To this end, AMNEX points to the Comments of COMPTTEL regarding the need for a unified rate structure and the disproportionately negative impact of a partitioned rate structure on third tier carriers. The inefficiency forced by BPP will only exacerbate these impacts.

remain today. The first concerns the costs of implementing billed party preference. The cost estimate was enormous two years ago.¹¹ There is no evidence that these costs have been reduced in the last two years, the effects of inflation notwithstanding. Beyond the actual cost calculations, there has been little, if any discussion concerning the appropriate rate structure for BPP. IXCs, especially if they do not issue calling cards usable through 0+ access, should not be asked to bear the costs of BPP. Nor should end users who do not make calls using the BPP system. However, unless the costs are spread throughout the ratebase they may be so high as to render the system uneconomic when subjected to a cost-benefit analysis.

The Commission must obtain precise cost information from the LECs and subject this information to scrutiny by the industry as a whole. Then, and only then, can it perform the cost benefit analysis necessary to determine the economic feasibility of BPP.

Another important area which must be addressed is whether or not BPP will truly result in a more user-friendly environment for the majority of end users. While BPP appears to be efficient in the case of automated calling card calls, it is not at all clear

¹¹ NYNEX estimated in 1989 that its start up costs would exceed \$33 million. Annual expenditures for NYNEX were figured, at minimum, to be \$16 million. May 26, 1989 Comments of NYNEX in RM-6723 at 5. Southwestern Bell estimated that its cost for implementing BPP in its five-state area would cost approximately \$141 million over five years. May 26, 1989 Comments of Southwestern Bell in RM-6723 at 8. AT&T states that its initial, annual cost for nationwide The total nationwide estimated five-year budget, in 1989 dollars, for physical implementation of BPP was over \$2 billion. May 26, 1989 Comments of American Telephone and Telegraph in RM-6723 at 5-6.

whether this same efficiency will be available for collect and third party calls, even if AABS is deployed. In particular, there does not appear to be an automated way to handle 0- or 00- calls. Regardless of whether they are charged to a calling card or are handled as collect or third number calls, the caller placing a 0- call would first have to reach a LEC operator, and then be passed to the appropriate IXC operator. This increases call set up time and the potential for fraud. It also represents a step backwards from the consumer's point of view vis-a-vis the existing system which allows only one operator intervention.

Importantly, the "two operator" problem is not an isolated one which happens in the minority of cases. Instead, live operator, 0- and collect calls account for 50% of the traffic originating at aggregator locations. For instance, AMNEX's experience is that 50% of all live operator seizures originate on a 0- or 00-¹² basis; live operator calls as a whole account for about 42% of AMNEX's total traffic from aggregator locations. Similarly, collect calls account for about 50% of all calls placed from aggregator locations. Thus, rather than being the exception, the two operator problem threatens to be the rule unless the application of AABs can be expanded.

¹² 00- calls present an interesting case: if 00 will continue to route to the presubscribed carrier, how will that carrier know the PIC of the caller? Will the 00 carrier be able to process the call, or will it have to instruct the caller to hang up and dial 0- to get a LEC operator who can help them? This re-education only confuses consumers and contradicts the information the Commission and the industry has spent so much time and energy providing to consumers to date (i.e., for the interstate carrier dial 00).

Accordingly, rapid development of AABs and equitable distribution of its costs is critical from the caller's point of view; however little is known about this technology, its costs and parallel development in the IXC switch which is necessary if it is to work. Clearly, this information must be placed on the record and a cost benefit analysis performed prior to implementation of BPP. Imposition of billed party preference will also have significant effects on related industries, most notably CPE manufacturers. Imposition of BPP on privately owned payphones would have a disastrous effect on the manufacturers of payphones for this industry. Manufacturers of, for example, store and forward phones, would find their products incompatible with the billed party preference system and be put out of business almost immediately. The exit of these American manufacturers would have ripple effects both domestically and internationally, contributing to expanding the trade deficit. If manufacturers exited the marketplace, stranded investment is likely to occur, eventually forcing private payphone owners to remove the over 350,000 new phones they have installed across the country because they could no longer be maintained or upgraded.

Finally, by centralizing intelligence in the LEC switch and network, BPP runs counter the Commission's established open network and CPE policies -- policies which have always encouraged the development of distributed intelligence outside the network. Once LEC switches replace CPE routing, validating and fraud protection functionality, little is left for the CPE to do and innovation is

defeated.

V. If BPP Is Implemented, The Commission Must Adopt Ballot and Allocation Rules and Take Other Steps to Assure That IXCs Have Complete And Accurate Marketing Information

The Notice seeks comment on several issues relating to the appropriate scope of billed party preference and its implementation. In particular, the Commission asks whether BPP should be required for all 0+ interLATA calls or only a portion of them and whether all LECs should be required to implement it. Finally, the Notice seeks specific comment on the process by which a 0+ PIC would be chosen.

As a preliminary matter, AMNEX believes that if BPP is to serve the goals set forth by the Commission it must be implemented on a uniform basis. If it is to be "user-friendly", BPP must be implemented uniformly and conveniently in every transient location. Therefore, BPP should be available in all calling locations in the country, even in areas where equal access is not available, and should be implemented for all types of calls. Otherwise, BPP will not simplify dialing procedures, it will only complicate them.

If BPP is implemented, it is imperative that consumers be required to make an affirmative choice of 0+ carriers. LECs cannot be allowed to simply notify consumers of the option to chose a separate 0+ carrier. Such a system will surely result in the mere translation of 1+ market share into 0+ marketshare.

Conversely, balloting will educate consumers about their choices and prompt them to make a conscious decision about their 0+ service. Balloting was chosen as the most appropriate vehicle for

1+ presubscription and 0+ presubscription at LEC owned payphones; 0+ presubscription in the BPP environment deserves no less.

Similarly, consumers who do not affirmatively choose a 0+ carrier should not simply be defaulted to the 1+ carrier as suggested in the Notice. Instead, as in the 1+ and payphone environment, consumers should be allocated to participating carriers in accordance with their percentage of presubscribed phones. Unless this occurs, BPP will not have conferred a true competitive benefit on consumers; it will have merely entrenched 1+ marketshare. This is particularly true where the dominant carrier continues to hold not only the largest 1+ marketshare, but also over 75% of the existing 0+ marketshare and where only a handful of carriers have nationwide FG-D originations. Only allocation will temper this dominance.

In addition, default to the 1+ carrier would compel all 1+ carriers to enter the 0+ business -- either by serving their customers directly or partnering with an OSP. Non dominant carriers should not be forced to enter a marketplace they do not wish to serve; this goes against the very essence of competition -- free market entrance and exit. Nor should the Commission be in the position of dictating a carrier's business or product line.

In tandem with the balloting procedure and the need for nationwide uniformity, the Commission must also ensure that presubscription is implemented in a standardized, neutral manner. As such, it should draw upon the lessons of previous presubscription efforts and correct persistent problems before they

occur.

The biggest problem is probably the accuracy and timeliness of the LEC databases provided to IXC's for use in the presubscription process. These lists have been notoriously inadequate, containing information which is out of date and just plain wrong (i.e., deceased subscribers, long-departed business owners or contact persons, whole groups of phones "forgotten" or "overlooked" during the initial process). Prior to implementing new presubscription, LECs should be required to revise and clean up their databases to ensure they are accurate. Once "clean", the lists must be provided to IXC's in a timely manner, with sufficient lead time before the actual balloting occurs to enable IXC's to engage in meaningful marketing activities. A minimum of 120 days must be provided between the time the lists are received by the IXC's and the time the initial ballots are sent to consumers.

The Commission must also ensure that the costs associated with obtaining these lists are just and reasonable, and available to all IXC's on a non-discriminatory basis.

Similarly, ballot results must be provided to IXC's in a timely manner and in a form usable to them. LECs should assume full responsibility for the costs associated with customers they misallocate or mis-assign through central office translation errors -- errors quite common with prior presubscription efforts.

If carefully planned and with proper oversight separate 0+ presubscription can improve consumer choice and lay the ground work for a robust, competitive operator service marketplace. Done

wrong, it threatens to return the marketplace to at best a triopoly and at worst a monopoly.

VI. Conclusion

AMNEX supports the Commission's efforts to refocus competition in the operator services marketplace away from the aggregator and towards the end user placing the call. However, implementation of BPP would represent a fundamental restructuring of not only the operator service industry, but also the broader interexchange marketplace. As such, it raises technical , operational, financial and competitive issues which must be fully examined and resolved before, and if, BPP is implemented. In addition, the resolution of certain of the questions posed by the Notice (e.g., the manner in which 0+ presubscription is to be accomplished, whether LECs are required to perform 10 or 14 digit LIDB screening) will, in large part, dictate the competitive implications of BPP.

The Commission must carefully scrutinize the effects of BPP on the competitive marketplace for (non-LEC) calling or travel card services. In particular, we are concerned that the secondary OSP designation described in the Notice will not operate as envisioned by the Commission to facilitate the full participation of third tier carriers. Instead, a secondary designation, while appealing, will be neither practical nor economical for carriers that wish to issue their own travel/calling cards and will increase both call processing time and fraud potential to unacceptable levels. Thus, BPP threatens to drive small competitions, both regional and product or niche specific, from the calling card and broader

interexchange marketplace, leaving only the three largest carriers as the sole non LEC card issuers and/or the only wholesale providers of nationwide originating access for resale carriers.

Moreover, by requiring carriers wishing to receive 0+ BPP calls to obtain trunk facilities to the LEC Operator Service Switches ("OSS") rather than LEC tandem switches, BPP necessitates the complete reconfiguration of most IXCs' networks. In particular, it requires the separation of originating and terminating access trunk groups, causing inefficiency and, more importantly, increasing access costs to third tier carriers with modest volumes and who rely on common transport for the bulk of their access facilities. This inefficiency and consequential increased access costs will only be exacerbated if a partitioned rate structure is adopted in Docket 91-213. Until the effects of BPP on carrier access charges are identified and resolved, BPP threatens to diminish, not increase competition for transient consumers and neither BPP nor a new access charge rate structure should be implemented.

AMNEX urges the Commission to move cautiously in this matter, using the opportunity presented by the instant Notice to gather more information concerning BPP, in particular the costs and technical changes (to both IXC and LEC networks) required by its implementation. The Commission should compile a complete record and then, if it still believes BPP is in the public interest, a further notice proposing specific rules could be issued. This is essential if BPP is to be implemented in a manner which not only

benefits consumers but also preserves the competitive interexchange marketplace.

Respectfully submitted,

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Dated: July 7, 1992

CERTIFICATE OF SERVICE

I, Bonnita L. Bradley, a legal secretary at the law offices of Wiley, Rein & Fielding, hereby certify that on this 7th day of July, 1992, copies of the foregoing "Comments of NYCOM and AMNEX" were caused to be sent by U.S. first class mail, postage prepaid, to each of the following parties:

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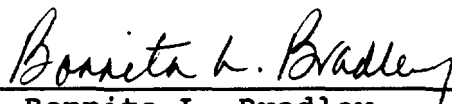
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